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DEPARTMENT INDEX

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EDITORIALS†

A NEW LEGISLATIVE PROBLEM: POSSIBLE DANGER TO CALIFORNIA STATE MEDICAL PRACTICE ACT

California's Medical Law of 1876.—California's first Medical Practice Act came into existence on April 17, 1876, at an annual meeting of the Medical Society of the State of California, the State Legislature having, on April 3, 1876, enacted a law

providing for the appointment of medical examiners, who should be authorized to determine, in accordance with the provisions of the aforesaid enactment, what persons are duly qualified as practitioners of medicine and surgery.

In the two years which followed, a total of 1,026 regular physicians were duly licensed, and of these some 1,015 physicians became members of the Medical Society of the State of California.

* * *

Amended Laws of 1878: Three Examining Boards.—Grave doubts having arisen concerning the adequacy of the law of 1876, the Medical Society of the State of California (by which name the California Medical Association was formerly known) proposed to the Legislature certain amendments, and these having been enacted, became law on April 1, 1878. The Board of Examiners so created were representatives of the

Medical Society of the State of California, the Eclectic Medical Society of the State of California, and the California State Homeopathic Medical Society, corporations organized and existing under and by virtue of the laws of this State, and no other corporation, society, persons or person, shall appoint annually a Board of Examiners, consisting of seven members, who shall hold their office for one year, and until their successors shall be chosen.

Concerning that law the Supreme Court of the State of California, considering an appeal attacking the statute, stated as part of the opinion then handed down:

Our conclusion is that, by conferring the authority and imposing the duty of appointing boards of examiners on the three societies named in the Act, the Legislature did not exceed the limitation of its powers contained in the provision of the Constitution above quoted; and that it is unnecessary herein to express any opinion as to the power of the Legislature to require that the fees collected by the boards should be paid to the societies named, since—even if it be assumed that such portions of the law are unconstitutional—the remaining portions are stated independ-

† Editorials on subjects of scientific and clinical interest, contributed by members of the California Medical Association, are printed in the Editorial Comment column, which follows.

ently, and of themselves contain a complete scheme for the examination of diplomas and applicants, for the prohibition of certificates by others than those empowered by the Act to issue them, and for the punishment of charlatanry and empiricism.

* * *

Amended Law of 1907: A Newly Created Composite Board.—Without delving further into a detailed history of the Medical Practice Act, it may be in order to mention several important changes. By 1901 the Legislature of California had created a Board of Osteopathic Examiners, but on May 1, 1907, a law was enacted which

repealed the prior medical and osteopathic acts and provided for the appointment of a composite board to regulate applicants from all schools and the practice of those licensed. This Act contained the following provisions: (1) Board made up as follows: Five members of Medical Society of State of California, two members of California Homeopathic Society, two members of Eclectic Medical Society, two members of Osteopathic Society of State of California.

* * *

The 1922 Initiative Laws of the Sectarian Schools.—The above arrangement continued until 1922, when, at the general election of November 7, 1922, the citizens of California, by initiative vote, created a separate Board of Osteopathic Examiners, that initiative law containing provisions making it possible to secure certain changes by amendments to the Medical Practice Act.*

* * *

Existing Medical Practice Act Somewhat Loose in Phraseology.—An inspection or perusal of the existing Medical Practice Act of California immediately gives the impression of a seeming lack of proper order and clarity of expression; on which account the suggestion has been rather frequently made that it would be a more readable document if it were rearranged or codified. In that point of view, members of the present and previous Boards of Examiners have concurred. However, with a greater understanding of the difficulties encountered by them in carrying out the law's provisions, and the knowledge that some of the strongest and most needed portions had received the sanction of the State's Supreme Court, they have been reluctant to propose amendments incorporating changes in phraseology or text which, being new, might again need court opinions to establish their constitutionality or scope. That is why, in the last ten to twenty years, amendments proposed by the Board have been of a constructive rather than radical nature; such as were proposed being advocated only when experience in board procedures indicated their special need.

* * *

A New and Serious Complication.—Comes now, out of a comparatively clear sky, a duly and legally constituted State body, the California Code Commission, created by the provisions of a legislative enactment known as Chapter 750, Statutes of 1929, to

undertake a restatement of all the statutory laws [of the State of California] "as will best serve clearly and correctly to express the existing provisions of the law." (Stats. 1929, Ch. 750, p. 1427, as amended.) In doing this work the Commission seeks to codify the statutes, without any change in the effect that they now have in their uncodified condition. No substantive change in the law is to be made.

Among the laws naturally considered by the California Code Commission is the Medical Practice Act, which, through the Commission's statute advisers, has been practically redrawn, a final redraft to be prepared and introduced to the Legislature which will convene in January, 1937; such codified form of the present Medical Practice Act to be submitted with a recommendation for passage without amendment.

In other words, the present Medical Practice Act, as finally codified by the Commission (but without the addition of any new provisions), will be sent to the Legislature, with other laws of California, and will probably be passed without alteration. Wherefore, of course, it is necessary that the codified draft, when submitted, in all essential provisions should be the same as the present Medical Practice Act and be acceptable to the medical profession.

* * *

First Draft of the Codified Medical Practice Act Is Now Being Considered.—This first draft of the codified Act has been mimeographed and sent to members of the profession who have been recommended to the Commission as persons able to be of advisory service. That the matter is of no trivial importance may be noted in perusing the letter sent by Dr. Charles B. Pinkham, Secretary of the Board of Medical Examiners of the State of California, to Mr. Arthur McHenry, Statute Reviser, whose name is signed to the transmittal letter accompanying the mimeographed redraft. Because of the great importance of the Medical Practice Act to every legally licensed physician in the State, this letter of Doctor Pinkham is here reprinted in full:

San Francisco, California,
September 14, 1936.

Subject:
Yours of September 10 re Medical Practice Act—Revision.

California Code Commission,
Sacramento, California.

Attention, Mr. Arthur McHenry, Statute Reviser.

Dear Mr. McHenry:

This will acknowledge receipt of your letter, stating that Lester R. Daniels, D. O., Secretary of the Board of Osteopathic Examiners, together with John L. Brannely, attorney for said Board, have requested an interview relative to the revised Medical Practice Act, as mimeographed in the "Proposed Business and Professional Code."

The undersigned must state that he is very much concerned over the way in which the Medical Practice Act has been torn apart, as manifested by the mimeographed copy recently received from you. Inasmuch as the entire medical profession of this State (as well as the osteopathic profession) is interested in the Medical Practice Act, a conference such as you mention should be open to the Council of the California Medical Association: June Harris, M. D., Medico-Dental Building, Sacramento, Chairman of the Legislative Committee of the California Medical Association; Charles E. Schoff, M. D., Chairman

* See August, 1936, issue of CALIFORNIA AND WESTERN MEDICINE, page 117, for comments on this provision of the law.

of the Committee on Legislation of the Board of Medical Examiners; Hartley Peart, Attorney-at-Law, and Counsel for the California Medical Association; Fred C. Warnshuis, M. D., Secretary of the California Medical Association; the deans of the Medical Schools of California, etc.

My reading of the mimeographed revision of the Medical Practice Act, recently received from the California Code Commission, impresses me with the idea that the existing Act has been thoroughly riddled. In my opinion the revision of said Act so confuses the present Act that it gives promise to open the gates for a lowered standard of education and licensure, as well as to embarrass the enforcement of the law.

The present Medical Practice Act is the result of careful study by some of the best legal minds, both in the Legislature and outside. Many sections have been written by men who are now Superior Judges. Amendments have been numerous, that defects discovered through experience with its workings might be remedied. The Act in its many provisions has been thoroughly threshed out in the various courts. Its constitutionality has been determined by the United States Supreme Court. To throw aside all the years of strenuous endeavor and start with a new-born infant seems futile.

Such an important law as the present Medical Practice Act should not be dissected and rearranged into the confusing form recently sent out by the Code Commission. The revision proposed by the Code Commission will necessitate a readjudication of many of the salient features of the Medical Act.

I am sending a copy of this communication to the Secretary of the California Medical Association and its Chairman on Legislation, as well as to the deans of the various medical schools in this State, all vitally interested in maintaining the standards of the California Medical Practice Act.

Very truly yours,

C. B. PINKHAM, M. D.,
Secretary-Treasurer.

* * *

The Redraft of the Present Medical Practice Act Is the Profession's Major Problem No. 1 in the 1937 Legislature.—It may be stated that, in the above recodification, we have Major Proposition No. 1 needing very prompt and explicit attention, not only by the Board of Medical Examiners, but by every officer and member of the California Medical Association and its component county societies.

The Council of the Association, which meets in Los Angeles on September 26, will no doubt give the matter its most careful consideration and take all necessary action to keep component county societies and members informed concerning this new issue.* The subject, it need hardly be said, is of tremendous importance; because, if the codification of the Commission shall be found to be lacking in the soundness of the present Medical Practice Act, it may permit the legal recognition of hundreds of practitioners not now eligible to practice as physicians and surgeons in California to, after all, secure licenses. Such a calamity would be a real blow both to public health and also the best interests of medical practice. The importance, therefore, of active interest in this matter by every physician already licensed to practice here cannot be overemphasized, and members of the California Medical Association are urged to keep in close touch with the situation as it develops.

* The California Medical Association Council on September 26 appointed a special committee of five, with Dr. Morton R. Gibbons as chairman, to act on this matter. The committee will be glad to receive suggestions.

AUTOMOBILE ACCIDENTS AND "VEHICIDES": SOME FEDERAL AND CALIFORNIA STATISTICS

One of the Leading Causes of Death.—In recent years it has become necessary to include among the leading causes of deaths of human beings the constantly-increasing automobile accidents, and this in spite of organized effort in many parts of the United States through laws and publicity campaigns to bring about a saner use of serviceable, but also dangerous, auto vehicles.

As a consequence of which physicians, who year after year read article after article in the medical press, dealing with improved methods of treatment through which it is hoped that occasionally an extra life might be saved, may well wonder at the seeming indifference by so many persons driving automobiles, to the health and lives of their human fellows.

* * *

The Appalling Federal Figures.—Consider for a moment that in the year 1935 the United States showed a total of 1,285,000 injuries, and 37,000 deaths due to motor accidents. Also, that 105,000 of the nonfatal injuries resulted in permanent disabilities. These summaries are certainly little less than appalling!

* * *

California's Unenviable Record.*—To bring the statistics nearer home, meditate on the mortality from automobile accidents as publicized by the United States Bureau of the Census:

Of the fatal mishaps due to automobiles for the brief four weeks' period ending August 29, 1936, Long Beach had 6 resulting in death; Los Angeles, 36; and both San Diego and San Francisco, 7. For the same period, New York City had 20 deaths; Chicago, 59; and Philadelphia, 20.

For the entire year, ending August 29, 1936, vehicide deaths were:

Los Angeles, 549; Long Beach, 59; San Diego, 58; San Francisco, 56, when, by contrast, New York had 949 deaths; Chicago, 743; and Philadelphia, 254.

While the death rates from automobile accidents per 100,000 population for the same fifty-two weeks were as follows:

Los Angeles, 37.5; Long Beach, 35; San Diego, 34.3; San Francisco, 8.3; New York, 13; Chicago, 19.4; and Philadelphia, 12.8.

* * *

Where Are We Lacking?—Vital statistics such as the above cannot do otherwise than excite both wonderment and sorrow. Somewhere, something is wrong, something lacking. One thing is certain: too many persons drive automobiles who should not be permitted to do so—drunken persons, children, mentally and physically deficient individuals. Adequate automobile licensure laws, also, are evidently lacking. Likewise, the penalizing statutes for improper driving and, perhaps,

* See also current news items on page 372.